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FRAUDULENT CONVEYANCES—SUIT TO SET ASIDE—RELIEF AWARDED.

4. Where a judgment creditor, suing to set aside a deed of trust on certain property in whole or in part on the ground of fraud, failed on such issue, he was nevertheless entitled to have the land sold and the proceeds applied first to the satisfaction of such deed, and the balance, if any, to the payment of the judgment.

SAME—SURETY OF DEBT.

5. Where, in a suit by a judgment creditor to set aside a trust deed for fraud, the debt secured thereby was due when an erroneous decree dismissing the bill was rendered, it was immaterial to such judgment creditor's right to have the property sold in satisfaction of the debt secured and of his judgment that the debt so secured was not due when the bill was filed.

APPEAL—RECORD—CONSTRUCTION.

6. Where an exhibit in the record recited that certain chancery causes were "lately pending" in a certain circuit court, such recital did not show that such causes were still on docket.

BLACK'S ADM'R. v. VIRGINIA PORTLAND CEMENT CO.

September 21, 1905.

[51 S. E. 831]

MASTER AND SERVANT—INJURIES TO SERVANT—ASSUMED RISK.

1. Though a servant on entering an employment, agrees by implication to assume the ordinary risks incident to the service, he does not assume any risk which may be obviated by the exercise of reasonable care on the part of the master.

[Ed. Note.—For cases in point, see vol. 34, Cent. Dig. Master and Servant, Secs. 538, 547, 550.]

SAME—DECLARATION—SUFFICIENCY.

2. A declaration in an action for death of a servant by the fall of rock in a stone quarry in which he was employed, alleging that the rock was in a position from which it was liable to fall, that defendant knew such fact and negligently permitted it so to remain, and that deceased, ignorant of the situation, remained at work in the quarry in due course of his employment, and while so engaged received his fatal injury, was not demurrable on the ground that the place where plaintiff was employed was constantly changing, and was not a place furnished by the master, but prepared in part by the work of the servants, the dangers of which they assumed.

[Ed. Note.—For cases in point, see vol. 34, Cent. Dig. Master and Servant, Secs. 547, 557.]